

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

HOPE W. LEVENE,

Defendant.

Adv. Pro. No. 10-05024 (SMB)

STIPULATION AND ORDER AS TO UNDISPUTED TRANSFERS

The plaintiff, Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, individually (“Madoff”), and defendant Hope W. Levene (“Defendant”), by and through their respective, undersigned counsel (collectively, the “Parties”), state as follows:

WHEREAS, as set forth in the Trustee’s Complaint in this adversary proceeding, BLMIS and/or Madoff made certain initial transfers to or for the benefit of Defendant relating to an account Defendant held at BLMIS and/or with Madoff (the “Initial Transfers”);

WHEREAS, in Counts One to Six of the Trustee's Complaint, the Trustee seeks to avoid and recover from Defendant the Initial Transfers or their value as fraudulent pursuant to, *inter alia*, sections 548, 550(a) and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code") as well as sections 78fff(b), 78fff-1(b) and 78fff-2(c)(3) of the Securities Investor Protection Act ("SIPA");

WHEREAS, Defendant raises certain defenses to the Trustee's claims in the Complaint;

WHEREAS, the Parties have conferred in an attempt to resolve, where possible, certain differences and disputes between them, and the parties are entering into this Stipulation to avoid unnecessary litigation over discovery disputes in the interest of efficiency; and

WHEREAS, upon execution and entry of this Stipulation, the Trustee agrees to forego service of subpoenas pursuant to Federal Rule of Civil Procedure 45 (made applicable by Federal Rule of Bankruptcy Procedure 9016) on financial institutions where Defendant held accounts that received funds from BLMIS in connection with the avoidance and recovery of the Initial Transfers.

NOW, THEREFORE, the Parties agree and stipulate to the following undisputed facts:

1. Defendant maintained account number 1CM112 (the "Account"), in Defendant's name.
2. Exhibit B to the Trustee's Complaint, which is incorporated herein by reference and attached hereto as Exhibit 1, accurately reflects the complete history of the transactions affecting the principal balance calculation of the Account.
3. Over the life of the Account, Defendant withdrew and received \$1,325,000 from the Account, which consisted of \$280,000 of principal and \$1,045,000 in excess of principal.
4. Between December 11, 2006 and December 11, 2008, Defendant withdrew and received from the Account \$405,000 in excess of principal.

5. By executing this Stipulation, Defendant in no way concedes or admits liability under Bankruptcy Code sections 548, 550 or any other applicable section of the Bankruptcy Code, SIPA, or any other applicable law.

6. This Stipulation is without prejudice to the Trustee asserting claims to avoid and/or recover any additional or other transfers to Defendant, including any subsequent transfers of the Initial Transfers, determined through the Trustee's continuing investigation and through discovery.

7. This Stipulation is without prejudice to Defendant to oppose any further claims asserted by the Trustee with respect to additional or other transfers as set forth above.

Dated: New York, New York
December 28, 2015

/s/ Keith R. Murphy

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the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC
and the Estate of Bernard L. Madoff*

SO ORDERED this 28th day of December, 2015.

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE